



## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

Requestor Name and Address:  FIRST STREET HOSPITAL 4801 BISSONNET ST BELLAIRE TX 77401-4028	MFDR Tracking #: M4-08-3147-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #:  Liberty Mutual Fire Insurance Box #: 28	Date of Injury:
	Employer Name:
	Insurance Carrier #:

### PART II: REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "...TWCC Rule 134.401 requires payment of 75% of audited charges for billed charges that reach the stop-loss threshold of \$40,000.00... The patient... was not admitted as an inpatient...; therefore, the facility should not be reimbursed at the inpatient per diem amount... Our facility requested immediate and proper reimbursement of 75% of audited charges pursuant to Texas Administrative Code Section 134.401 (c) (6) with no avail."

**Amount in Dispute:** \$50,424.98

### PART III: RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Per the UB92, the claimant was in the facility less than 23 hours... these services should have been billed as an outpatient status and have since been adjusted to pay the correct outpatient rate... Because the provider is billing this service as outpatient services, the Texas Stop Loss provision does not apply. The bill has been adjusted and paid according to the correct outpatient rate including interest."

### PART IV: SUMMARY OF FINDINGS

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
12/12/2006	Z695, Z711, Z652	Outpatient Surgery	\$50,424.98	\$0.00
<b>Total Due:</b>				<b>\$0.00</b>

### PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code § 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.1, titled *Medical Reimbursement*, effective May 2, 2006 set out the reimbursement guidelines.

This request for medical fee dispute resolution was received by the Division on November 3, 2007.

- For the services involved in this dispute, the respondent reduced or denied payment with reason code:
  - Z695 – THE CHARGES FOR THIS HOSPITALIZATION HAVE BEEN REDUCED BASED ON THE FEE SCHEDULE ALLOWANCE. (Z695)
  - Z711 – THE CHARGE FOR THIS PROCEDURE EXCEEDS THE CUSTOMARY CHARGES BY OTHER PROVIDERS FOR THIS SERVICE. (Z711)
  - Z652 – RECOMMENDATION OF PAYMENT HAS BEEN BASED ON A PROCEDURE CODE WHICH BEST DESCRIBES SERVICES RENDERED. (Z652)
- The requestor has requested reimbursement under the stop loss provision of the Division's *Acute Care Inpatient Hospital Fee Guideline* found in Division rule at 28 TAC §134.401(c)(6). The requestor asserts in the request for reconsideration that "TWCC Rule 134.401 requires payment of 75% of audited charges for billed charges that reach the stop-loss threshold of \$40,000.00." However, the requestor goes on to state that "The patient... was not admitted as an inpatient...; therefore, the facility should not be reimbursed at the inpatient per diem amount." The respondent contends that "Per the UB92, the claimant was in the facility less than 23 hours... these services should have been

billed as an outpatient status and have since been adjusted to pay the correct outpatient rate... Because the provider is billing this service as outpatient services, the Texas Stop Loss provision does not apply.” Division rule at 28 TAC §134.401(b)(1)(B), effective August 1, 1997, 22 TexReg 6264, defines inpatient services as “Health care, as defined by the Texas Labor Code, §401.011(19), provided by an acute care hospital and rendered to a person who is admitted to an acute care hospital and whose length of stay exceeds 23 hours in any unit of the acute care hospital.” Review of box 4 of the submitted medical bill finds Type of Bill code 131, indicating that the bill is for outpatient services. Review of box 6 finds that all services were provided on 12/12/06. Review of boxes 12, 13, and 16 finds that the patient was admitted on 12/12/06 at hour 07 and discharged 12/12/06 at hour 10. Review of the submitted documentation finds no documentation to support that the length of stay exceeded 23 hours. The Division concludes that the disputed services were outpatient services and therefore the stop loss reimbursement method found in Division rule at 28 TAC §134.401(c)(6) is not applicable to the services in dispute. The applicable rule for reimbursement is Division rule at 28 TAC §134.1.

3. This dispute relates to outpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.1, effective May 2, 2006, 31 TexReg 3561, which requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers’ compensation health care network shall be made in accordance with subsection §134.1(d) which states that “Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available.”
4. Division rule at 28 TAC §134.401(a)(4), effective August 1, 1997, 22 TexReg 6264, provides that “Ambulatory/outpatient surgical care is not covered by this guideline and shall be reimbursed at a fair and reasonable rate until the issuance of a fee guideline addressing these specific types of reimbursements.”
5. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
6. Division rule at 28 TAC §133.307(c)(2)(A), effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include “a copy of all medical bill(s)... as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration...” Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of all medical bill(s) as submitted to the carrier for reconsideration. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §133.307(c)(2)(A).
7. Division rule at 28 TAC §133.307(c)(2)(E), effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, requires that the request shall include “a copy of all applicable medical records specific to the dates of service in dispute.” Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of all applicable medical records to support the services in dispute. The requestor did not submit a copy of the anesthesia record, laboratory report(s), radiology report(s), nursing notes, post-operative notes, discharge summary or other pertinent medical records to support the services as billed. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §133.307(c)(2)(E).
8. Division rule at 28 TAC §133.307(c)(2)(G), effective December 31, 2006, 31 TexReg 10314, applicable to disputes filed on or after January 15, 2007, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:
  - The requestor’s position statement asserts that “Our facility requested immediate and proper reimbursement of 75% of audited charges pursuant to Texas Administrative Code Section 134.401 (c) (6) with no avail.”
  - As noted above, the stop loss provision of former Division rule at 28 TAC §134.401(c)(6) is not applicable to the services in dispute; the applicable rule for reimbursement is Division rule at 28 TAC §134.1.
  - The requestor does not discuss or explain how payment of 75% of audited charges would result in a fair and reasonable reimbursement.
  - The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement.
  - The Division has previously found that a reimbursement methodology based upon payment of a hospital’s billed charges, or a percentage of billed charges, does not produce an acceptable payment amount. This methodology was considered and rejected by the Division in the *Acute Care Inpatient Hospital Fee Guideline* adoption preamble which states at 22 Texas Register 6276 (July 4, 1997) that:

“A discount from billed charges was another method of reimbursement which was considered. Again, this method

was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources.”

- The requestor did not discuss or explain how payment of the requested amount would satisfy the requirements of Division rule at 28 TAC §134.1.
- The requestor did not discuss or support that the proposed methodology would ensure that similar procedures provided in similar circumstances receive similar reimbursement.
- The requestor did not submit nationally recognized published studies, published Division medical dispute decisions, or documentation of values assigned for services involving similar work and resource commitments to support the proposed methodology.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

9. The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307(c)(2)(A), §133.307(c)(2)(E), and §133.307(c)(2)(G). The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

#### PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code §401.011, §413.011(a-d), §413.031 and §413.0311  
28 Texas Administrative Code §133.307, §134.1, §134.401  
Texas Government Code, Chapter 2001, Subchapter G

#### PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute.

##### DECISION:

_____	<b>Grayson Richardson</b>	<b>December 28, 2010</b>
Authorized Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	_____
Authorized Signature	Health Care Quality Review Director	Date

#### PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 TAC §148.3(c).

Under Texas Labor Code §413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**